

§ 2554.14

must be served on the reviewing official.

§ 2554.14 What happens if a defendant fails to file an answer?

(a) If a defendant does not file any answer within 30 days after service of the complaint, the reviewing official will refer the complaint to the ALJ.

(b) Once the complaint is referred, the ALJ will promptly serve on the defendant a notice that an initial decision will be issued.

(c) The ALJ will assume the facts alleged in the complaint to be true and, if such facts establish liability under the statute, the ALJ will issue an initial decision imposing the maximum amount of penalties and assessments allowed under the statute.

(d) Except as otherwise provided in this section, when a defendant fails to file a timely answer, the defendant waives any right to further review of the penalties and assessments imposed in the initial decision.

(e) The initial decision becomes final 30 days after it is issued.

(f) If, at any time before an initial decision becomes final, a defendant files a motion with the ALJ asking that the case be reopened and describing the extraordinary circumstances that prevented the defendant from filing an answer, the initial decision will be stayed until the ALJ makes a decision on the motion. The reviewing official may respond to the motion.

(g) If, in his motion to reopen, a defendant demonstrates extraordinary circumstances excusing his failure to file a timely answer, the ALJ will withdraw the initial decision, and grant the defendant an opportunity to answer the complaint.

(h) A decision by the ALJ to deny a defendant's motion to reopen a case is not subject to review or reconsideration.

(i) The defendant may appeal to the authority head the decision denying a motion to reopen by filing a notice of appeal with the authority head within 15 days after the ALJ denies the motion. The timely filing of a notice of appeal shall stay the initial decision until the authority head decides the issue.

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(j) If the defendant files a timely notice of appeal with the authority head, the ALJ shall forward the record of the proceeding to the authority head.

(k) The authority head shall decide expeditiously whether extraordinary circumstances excuse the defendant's failure to file a timely answer based solely on the record before the ALJ.

(l) If the authority head decides that extraordinary circumstances excused the defendant's failure to file a timely answer, the authority head shall remand the case to the ALJ with instructions to grant the defendant an opportunity to answer.

(m) If the authority head decides that the defendant's failure to file a timely answer is not excused, the authority head shall reinstate the initial decision of the ALJ, which shall become final and binding upon the parties 30 days after the authority head issues such decision.

§ 2554.15 What happens once an answer is filed?

(a) When the reviewing official receives an answer, he must file concurrently, the complaint and the answer with the ALJ, along with a designation of a Corporation representative.

(b) When the ALJ receives the complaint and the answer, the ALJ will promptly serve a notice of oral hearing upon the defendant and the representative for the Corporation, in the same manner as the complaint, service of which is described in § 2554.12. The notice of oral hearing must be served within six years of the date on which the claim or statement is made.

(c) The notice must include:

(1) The tentative time, place and nature of the hearing;

(2) The legal authority and jurisdiction under which the hearing is to be held;

(3) The matters of fact and law to be asserted;

(4) A description of the procedures for the conduct of the hearing;

(5) The name, address, and telephone number of the defendant's representative and the representative for the Corporation; and

(6) Such other matters as the ALJ deems appropriate.